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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/430,045	10/29/1999	DAVID CARROLL CROMWELL	7000-045	6702

27820 7590 01/09/2006

WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

EXAMINER	
NGUYEN, DUSTIN	

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 01/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/430,045	CROMWELL ET AL.	
	Examiner	Art Unit	
	Dustin Nguyen	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 October 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 – 19, 36 – 45, 52 - 69* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 – 19, 36 – 45, 52 - 69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAIL ACTION

1. Claims 1 – 19, 36 – 45, 52 - 69 are presented for examination.

Response to Arguments

2. Applicant's arguments filed 10/27/2005 have been fully considered but they are not persuasive.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Inniss and Wert would have been obvious to a person skill in the art at the time the invention was made because both references deal with transmitting or sending multiple messages [Inniss, col 1, lines 33-48 and col 3, lines 58-col 4, lines 9] or announcements to recipient [Wert, col 2, lines 23-34]. Furthermore, Wert's teaching of playing announcements to recipient would allow subscriber to control the selection of playing announcements to the recipients [Wert, col 1, lines 53-60].

4. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of Inniss, Wert and Arango would have been obvious at the time the invention was made to combine the teaching because Arango's teaching of media gateway control protocol (MGCP) would enable to extend the capability of the system to provide a protocol for controlling the Telephony Gateways from external call control elements called media gateway controllers or called agent, wherein the telephony gateway is a network element that provides conversion the audio signals carried on the telephone circuit and data packets carried over the internet or over other packet networks [Arango, page 5].

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1 – 19, 36 – 45, 52 - 69 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 09/431566 [hereinafter '566 application]. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

Taking claim 1 as an exemplary claim, the '566 application contains the subject matter claimed in the instant application. As per claim 1, both applications are claiming common subject matter, as follows:

A sequence processor for providing access to a sequence of audio segments ...:

receiving a request ...;

locating, in an audio server database, ...;

playing the sequence ....

The claim of instant application do not specifically state the audio package and the index file as described in the claim 1 of the '566 application but it would have been obvious to a person skill in the art to recognize that the audio identifier would have enabled the system to play the identified audio segment within the sequence of audio segment.

As per independent claims 7, 12, 36, 40, 43, 52, 55, 59 60, 63, 67, they are also directed to the same subject matter recited in claim 1 above. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

As per dependent claims 2-6, 8-11, 13-19, 37-39, 41, 42, 44, 45, 53, 54, 56-58, 61, 62, 64-66, 68 and 69 of the instant application, they contain similar subject matter as dependent claims of '566 application. Accordingly, they are provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1, 7, 36, 40, 52, 55, 60-62, 64, and 65, are rejected under 35 U.S.C. 103(a) as being unpatentable over Inniss et al. [US Patent No 5,539,808], in view of Wert [US Patent No 5,528,672].

9. As per claim 1, Inniss discloses the invention substantially as claimed including a sequence processor for providing access to a sequence of audio segments accessible by an audio server, the sequence processor comprising computer-executable instructions embodied in a computer-readable medium for performing steps comprising:

receiving a request for playing the sequence of audio segments [Figure 5; and col 7, lines 51-col 8, lines 21], the sequence being identified by an audio identifier [Figure 7; and col 9, lines 38-52];

locating, in an audio server database [i.e. repository] [col 4, lines 1-9], the sequence of audio segments based on the audio identifier [Figure 6; col 9, lines 26-38; and col 10, lines 5-15].

Inniss does not specifically disclose

the sequence of audio segments comprising at least portions of network-related announcements to be played to a recipient; and

playing the sequence of audio segments to the recipient so that the recipient is apprised of at least one network-related announcement.

Wert discloses

the sequence of audio segments comprising at least portions of network-related announcements to be played to a recipient [Figure 2; Abstract; and col 2, lines 23-43]; and

playing the sequence of audio segments to the recipient so that the recipient is apprised of at least one network-related announcement [110, Figure 3; and col 6, lines 17-21].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Inniss and Wert because Wert's teaching of network-related

announcement would allow to deliver network announcement on a real time basis [Wert, col 2, lines 41-43].

10. As per claim 7, it is rejected for similar reasons as stated above in claim 1. Furthermore, Inniss discloses a selector for specifying a member of the set corresponding to the audio segment [Figure 6; and col 6, lines 52-65] and selecting the audio segment to be played based on the audio identifier and the selector [Figure 7; and col 9, lines 38-52].

11. As per claim 36, it is rejected for similar reasons as stated above in claim 1.

12. As per claim 40, it is rejected for similar reasons as stated above in claim 7.

13. As per claim 52, it is a method claimed of claim 1, it is rejected for similar reasons as stated above in claim 1.

14. As per claim 55, it is method claimed of claim 7, it is rejected for similar reasons as stated above in claim 7.

15. As per claim 60, it is rejected for similar reasons as stated above in claim 1. Furthermore, Inniss discloses an interface card, an audio server database embodied in a memory device, and a processor [Figure 1].

16. As per claim 61, Inniss discloses at least one digital signal processing (DSP) card for converting the sequences of audio data segments extracted from the audio server database into a format for playing to the recipient [col 3, lines 49-57].

17. As per claim 62, it is rejected for similar reasons as stated above in claim 7.

18. As per claim 64, it is rejected for similar reasons as stated above in claim 1.

19. As per claim 65, it is rejected for similar reasons as stated above in claim 7.

20. Claims 2-4, 10, 11, 37, 38, 53, 54, 56, are rejected under 35 U.S.C. 103(a) as being unpatentable over Inniss et al. [US Patent No 5,539,808], in view of Wert [US Patent No 5,528,672], and further in view of Mauricio Arango, Andrew Dugan, Isaac Elliott, Christian Huitema and Scott Pickett "Media Gateway Control Protocol", XP-002278702 [hereinafter Mauricio].

21. As per claim 2, Inniss and Wert do not specifically disclose receiving a request from a media gateway control protocol (MGCP) call agent. Mauricio discloses receiving a request from a media gateway control protocol (MGCP) call agent [page 6, lines 30-40]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Inniss, Wert, and Mauricio because Mauricio's teaching of MGCP would provide conversion

between the audio signals carried on telephone circuits and data packets carried over the Internet or over other packet networks [Mauricio, page 6, lines 6-9].

22. As per claim 3, Mauricio discloses receiving an MGCP NotifyRequest command from the call agent [page 2, lines 6-11].

23. As per claim 4, Mauricio discloses transmitting audio data packets to a gateway over a packet-based network, and wherein the gateway plays the sequence [page 6, lines 3-9].

24. As per claims 10 and 11, they are rejected for similar reasons as stated above in claims 2 and 3.

25. As per claims 37 and 38, they are rejected for similar reasons as stated above in claims 2 and 3.

26. As per claims 53 and 54, they are rejected for similar reasons as stated above in claims 2 and 4.

27. As per claim 56, it is rejected for similar reasons as stated above in claim 2.

28. Claims 5, 6, 12-19, 39, 43-45, 59, 63, 66-69, are rejected under 35 U.S.C. 103(a) as being unpatentable over Inniss et al. [US Patent No 5,539,808], in view of Wert [US Patent No 5,528,672], and further in view of Nimphius [US Patent No 6,496,570].

29. As per claim 5, Inniss and Wert do not specifically disclose receiving a request for playing the sequence of audio segments wherein at least one of the audio segments is a variable. Nimphius discloses receiving a request for playing the sequence of audio segments wherein at least one of the audio segments is a variable [col 5, lines 17-21]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Inniss, Wert and Nimphius because Nimphius' teaching of variable would allow to provide a flexible method and a corresponding communication network for offering announcements for the subscribers [Nimphius, col 2, lines 58-60].

30. As per claim 6, Nimphius discloses resolving the variable into an audio data segment [col 6, lines 21-43].

31. As per claim 12, it is rejected for similar reasons as stated above in claims 1, 5 and 6. Furthermore, Nimphius discloses determining whether the variable is an embedded variable and playing the sequence including the variable [i.e. language code] [col 8, lines 18-24].

32. As per claim 13, Nimphius discloses in response to determining that the variable is not an embedded variable, resolving the variable into at least one audio data segment based on at least one of type, subtype, and value of the variable [i.e. conversion] [col , lines 44-53].

33. As per claim 14, Nimphius discloses the variable is Multilanguage variable and wherein resolving the variable includes selecting audio data segments to be played based on a language specified by the variable [i.e. language code] [col 8, lines 18-24].

34. As per claim 15, it is rejected for similar reasons as stated above in claim 14.

35. As per claims 16-19, they are rejected for similar reasons as stated above in claims 5-7.

36. As per claim 39, it is rejected for similar reasons as stated above in claims 5 and 6.

37. As per claim 43, it is rejected for similar reasons as stated above in claims 1, 5, 6 and 14.

38. As per claim 44, Nimphius discloses means for selecting audio segments having inflections in accordance with the language specified in the request [col 6, lines 21-43].

39. As per claim 45, it is rejected for similar reasons as stated above in claim 7.

40. As per claim 59, it is rejected for similar reasons as stated above in claim 12.

41. As per claim 63, it is rejected for similar reasons as stated above in claims 1, 5 and 6.

42. As per claim 66, it is rejected for similar reasons as stated above in claims 5 and 6.

43. As per claims 67-69, they are rejected for similar reasons as stated above in claims 1, 5-7.

44. Claims 8, 9, 41, 42, 57, 58, are rejected under 35 U.S.C. 103(a) as being unpatentable over Inniss et al. [US Patent No 5,539,808], in view of Wert [US Patent No 5,528,672], and further in view of Barbara et al. [US Patent No 5,926,789].

45. As per claim 8, Inniss and Wert do not specifically disclose the set contains a plurality of levels of audio data qualifiers and the selector specifies a path through the levels that leads to the member corresponding to the audio segment to be played. Barbara discloses the set contains a plurality of levels of audio data qualifiers [Figure 1; and col 2, lines 36-53] and the selector specifies a path through the levels that leads to the member corresponding to the audio segment to be played [Figure 2; and col 4, lines 30-43]. It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Inniss, Wert and Barbara because Barbara's teaching of plurality of levels and paths would provide dynamic interaction between subscriber and the system.

46. As per claim 9, Barbara discloses the set contains a plurality of levels of audio data qualifiers and the selector specifies a partial path through the levels and selecting the audio data segment to be played includes traversing the levels in the order specified by the selector and supplying default paths through levels not specified by the selector [i.e. "tree" organization] [Figure 2; and col 4, lines 44-56].

47. As per claims 41 and 42, they are rejected for similar reasons as stated above in claims 8 and 9.

48. As per claims 57 and 58, they are rejected for similar reasons as stated above in claims 8 and 9.

49. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (571) 272-3971. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee John can be reached on (571) 272-3968. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dustin Nguyen
Examiner
Art Unit 2154